

City of Alexandria, Virginia

MEMORANDUM

DATE: NOVEMBER 30, 2022

TO: JAMES PARAION, CITY MANAGER

FROM: ROBERT SNYDER, CHIEF INTERNAL AUDITOR

SUBJECT: CHESAPEAKE BAY PRESERVATION ACT COMPLIANCE REVIEW (FS23-06)

Background

The City of Alexandria is subject to the Chesapeake Bay Preservation Act (CBPA). On February 8th, 2021 the Department of Environmental Quality (DEQ) on behalf of the State Water Control Board (Board) notified the City that it had conducted a compliance review of the City of Alexandria's CBPA program. (See Attachment 1) The compliance review was conducted in accordance with DEQ's Chesapeake Bay Preservation Act Compliance Evaluations Procedures¹.

Recommendations

The compliance review identified two (2) recommended conditions. (See Attachment 2)

Recommended Condition #1

DEQ staff recommended that the City of Alexandria require the following: 1) a plat notation of the requirement to show RPA and RMA boundaries, 2) a plat notation of the requirement to retain an undisturbed and vegetated 100-foot wide buffer area; 3) a plat notation that specifies permitted development in the RPA is limited to water dependent facilities or redevelopment, including the 100-foot wide vegetated buffer, and; 4) a site plan notation of the requirement that the delineation of the buildable area be shown on all submitted site plans.

Recommended Condition #2

DEQ staff recommended that the City ensure that all information referenced in the Water Quality Management Supplement, as relates to the City's CBPA program, reflect current conditions, and include up-to-date policies and procedures designed to address the City's regulatory CBPA requirements. DEQ also recommended that the City provide to DEQ, as required, a written statement describing how the City ensures that data and policies adopted pursuant to comprehensive plan requirements are reviewed and updated as needed to ensure that they remain current, and that the City implements all required components of the Bay Act components of the comprehensive plan and can provide DEQ with a status report regarding that implementation.

¹ (Note: DEQ has not included an assessment of the City's stormwater requirements in this compliance review.)

Corrective Action Agreement

Based on a review of all available documentation, approved plans, annual reports and field visits, the DEQ developed a staff report and a Corrective Action Agreement. (See Attachment 3) The agreement included a statement that *“by entering into this Agreement, the City does not admit to the Board’s findings of deficiencies and the legal requirements contained herein for the program components listed below but agrees not to contest the findings and to implement the necessary corrective actions identified by the Board on or before the agreed completion date”*. The staff report and plan directed the City to address the two (2) recommended conditions no later than January 31, 2022.

The nature of the recommended conditions required actions by both the City of Alexandria Planning Commission and the City Council. The City later requested an extension, and this date was later adjusted by DEQ staff to September 30, 2022 obliging to the City’s request. The request was granted on January 7, 2022, and the City has since undertaken several actions to address the recommended conditions.

Corrective Action Implementation

On October 11, 2022, the Virginia Department of Environmental Quality issued a compliance evaluation condition review. (See Attachment 4) The document noted the status of the following conditions:

- On September 9, 2021, the City of Alexandria Planning Commission reviewed and approved Zoning Text Amendment #2021-00003. On January 24, 2022, and February 9, 2022, DEQ staff noted in two (2) respective emails that the City had successfully met the necessary requirements to clear Recommended Condition 1.
- On August 17, 2022, City staff provided a draft copy of the City’s Chesapeake Bay Preservation Plan to DEQ staff before the September 6, 2022, Planning Commission Review and City Council Review on September 17, 2022. On September 19, 2022, DEQ staff received additional documentation that based on the review process displayed that the City successfully met all requirements for Recommended Condition 2. On October 11, 2022, the City received a final condition review from DEQ confirming all requirements of the compliance evaluation were met successfully.

Conclusion

Based on the departments completion of the measures specified by DEQ we consider this engagement closed. Should you have any questions, please contact me at robert.snyder@alexandriava.gov or via phone a 703.746.4742.

cc.

Emily Baker, Deputy City Manager

Yon Lambert, Director Department of Transportation and Environmental Services

City of Alexandria Audit Committee



COMMONWEALTH of VIRGINIA

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February 8, 2021

Mr. Mark B. Jinks
City Manager
City of Alexandria
301 King Street, Room 3500
Alexandria, VA 22314

RE: City of Alexandria Chesapeake Bay Preservation Act Program – Compliance Review with
Recommended Conditions

Dear Mr. Jinks:

Pursuant to §§ 62.1-44.15:69 and 62.1-44.15:71 of the Chesapeake Bay Preservation Act and 9 VAC25-830-260 of the Chesapeake Bay Preservation Area Designation and Management Regulations, the Department of Environmental Quality (DEQ) on behalf of the State Water Control Board (Board) has conducted a compliance review of the City of Alexandria's Chesapeake Bay Preservation Act program. The compliance review was conducted from June 2020 through January 2021 and was conducted in accordance with DEQ's Chesapeake Bay Preservation Act Compliance Evaluations Procedures. (Note: DEQ has not included an assessment of the City's stormwater requirements in this compliance review.)

Based on a review of all available documentation, approved plans, annual reports and field visits, DEQ has developed the attached staff report and Draft Corrective Action Plan (Plan). Please note that the staff report and Plan identify two (2) conditions for compliance and a timeframe for addressing the conditions. This letter is not intended as a case decision under the Virginia Administrative Process Act, Va. Code 2.2-4000 et seq. DEQ will re-evaluate the City of Alexandria's Chesapeake Bay Preservation Act program at the end of the timeframe indicated in the staff report. We appreciate the City's cooperation in undergoing a compliance review of the local Bay Act program and look forward to continuing to work to ensure that the City's Bay Act program is compliant with the Act and its Regulations.

DEQ, on behalf of the Board, will make a final determination of compliance at the end of the timeframe provided in the staff report based upon the submittals and information provided. Please be advised that failure of the City to comply with §§ 62.1-44.15:74 and 62.1-44.15:76 of the Act and the Regulations may subject the City to the compliance and enforcement provisions as set forth in §§ 62.1-44.15:69 and 62.1-44.15:71 of the Act and 9VAC 25-830-260 and -270 of the Regulations.

Please provide a response to this correspondence within 30 days of the date of this letter. If you have questions or need additional information, please contact Daniel Moore at (804) 698-4520 or me at 804-698-4185.

Sincerely,

Justin Williams
Manager, Local Government Assistance Programs

Cc: Jutta Schneider, Water Planning Director, Office of Monitoring and Assessment, DEQ

**DEPARTMENT OF ENVIRONMENTAL QUALITY
CHESAPEAKE BAY PRESEVATION ACT PROGRAM
COMPLIANCE REVIEW REPORT**

CITY OF ALEXANDRIA

Local Coordinator: Melanie Mason, Principal Planner Stormwater Management Division
DEQ Liaison: Daniel Moore, Principal Environmental Planner

I. Summary of Staff Recommendations

Pursuant to 62.1-44.15:69 and 62.1-44.15:71 of the Chesapeake Bay Preservation Act (Act) and 9 VAC 25-830-260 of the Chesapeake Bay Preservation Area Designation and Management Regulations (Regulations), Virginia Department of Environmental Quality (DEQ) staff has conducted a compliance review of the City of Alexandria's Chesapeake Bay Preservation Act program and has identified recommended conditions regarding certain aspects of the City's implementation of its program. DEQ staff recommends that the City of Alexandria address the two (2) conditions contained in this report no later than January 31, 2022.

II. Local Program Description

The City's Chesapeake Bay Preservation Ordinance (Bay Ordinance) was approved by the Chesapeake Bay Local Assistance Board (Board) on June 19, 2006. The City's Resource Protection Areas (RPA) include all required RPA components. The Chesapeake Bay Preservation Area (CBPA) map is used as general reference only, with onsite RPA delineation required. The City has designated all lands within the City not designated as RPA as Resource Management Area (RMA). The City's comprehensive plan was first found consistent by the Board on March 19, 2001.

III. Background

DEQ staff initiated the compliance review for the City of Alexandria by sending a notification letter to City staff on June 18, 2020. DEQ staff participated in a conference call with City staff on August 17, 2020 to discuss the compliance review process and the local program and review additional information needed. Field investigations took place on November 20, 2020. Copies of field notes, photographs, materials provided by the City and copies of the completed *Consolidated Checklist for Local Program Compliance Review* and the *Site Plan File* and *Field Review Checklists* are included in the file.

IV. Review of Required Program Elements

Annual Implementation Report

The City has submitted the required Annual Implementation Report on time since each year since 2015. DEQ staff anticipates the City will submit the 2020 Annual Implementation Report to DEQ by the March 15, 2021 deadline. There are no compliance issues related to this requirement.

Site Plan and Plat Notation Requirements

Documentation regarding the August 2010 Advisory Review of the City's ordinances and plan review processes indicate that all of the four applicable requirements found within 9 VAC 10-20-191 A 4 & 5 of the Regulations had been satisfied as of that date. (Items #3 and #4 of the Site Plan and Plat Consistency Review Checklist reference local on-site septic pump-out programs. Provisions regarding on-site septic systems are not applicable, as there are no existing on-site septic systems in the City of Alexandria and the City requires all new development to connect to the public system.)

In contradiction to the findings from the 2010 Advisory Review, however, this compliance review finds three (3) key plan and plat requirements missing from City ordinances. Section 11-1706 of the City's Zoning Ordinance (Subdivisions – Contents of Preliminary Plat Applications) (D) (15) requires the preliminary plat show "the limits of floodplains and resource protection areas." Missing from the list of information required to be shown on the preliminary plat are the following:

- the depiction of Resource Protection Area (RPA) **and** *Resource Management Area (RMA) boundaries* on submitted plats;
- a notation on plats of the requirement to retain an undisturbed and vegetated 100-foot wide buffer area;
- a notation on plats that specifies permitted development in the RPA is limited to water dependent facilities or redevelopment in Resource Protection Areas, including the 100-foot wide vegetated buffer.

As Section 11-1709 (Final Plats) (B) (1) requires that final plats include all information required of the preliminary plat, the required plat notation text referenced above is not currently being required of applicants and, as the field investigations section of the report notes, the required plan and plat notes are not included on approved plans or plats.

The City's Grading Plan Check List Submission Requirements requires a note stating that the "*RPA buffer shall be vegetated with native riparian species and remain undisturbed. RPA is limited to water dependent facilities or redevelopment*" and a note stating that the "*RPA buffer shall be vegetated with native riparian species and remain undisturbed. RPA is limited to water dependent facilities or redevelopment.*" While a grading plan is an integral part of the plan of development review process, and the above grading plan notes are a benefit to that process, the requirements of 9VAC25-830-190 A 4 specifically state that the required plat notations are to be referenced in the local land use ordinances and regulations.

Recommended Condition

1. As required by 9 VAC 25-830-190(A)(4)(i)-(iii) and (5) of the Regulations, DEQ staff recommends that the City require the following: 1) a plat notation of the requirement to show RPA and RMA boundaries, 2) a plat notation of the requirement to retain an undisturbed and vegetated 100-foot wide buffer area; 3) a plat notation that specifies permitted development in the RPA is limited to water dependent facilities or redevelopment, including the 100-foot wide vegetated buffer, and; 4) a site plan notation of the requirement that the delineation of the buildable area be shown on all submitted site plans.

DEQ staff suggests City staff add the above-referenced requirements regarding plan and plat notations to all applicable plan of development checklists to ensure consistent implementation of the requirements. Consistent use of the revised checklists provided for use by landowners, developers, and City staff would improve the quality of submissions, decision-making, and documentation of the review process.

Minimizing Land Disturbance

Section 13-109 (General Performance Criteria for CBPAs) (A) of the City's Environmental Management Ordinance (EMO) requires that no more land be disturbed than necessary to provide for the proposed use, development or redevelopment. The EMO, the Erosion and Sediment Control Ordinance, and a Memo to Industry letter (No. 02-08) include eight (8) provisions to limit land disturbance and the provisions in these ordinances and documents result in at least one provision in all four of the subsections (requirements for open space, clearing and grading, utility and easement and low impact design concepts) in Part 1 of the City's 2010 Advisory Review checklist.

The EMO protects non-RPA wetlands, intermittent streams and floodplains from inappropriate development. Clearing and grading activities are limited through preliminary and final development special use permits, development site plan checklists, and grading plan check list submission requirements. The City requires all submitted Water Quality Impact Assessments (WQIA) to include the description of existing vegetation in the RPA, and the RPA is required to be physically marked on site during construction, through the City's plan of development review process. The City also requires the approval of utility installation plans through their excavation permit process even though this requirement is not expressly outlined as a permit requirement.

The measures that the City has adopted to limit land disturbance appear to provide a number of different tools to accomplish this objective. The site plan and field inspection sections of this review did not reveal any instances where the objective of minimizing land disturbance was not met. There are no compliance issues related to this requirement.

Preserving Indigenous Vegetation

The City's 2010 Advisory Review noted ten (10) provisions for the preservation of indigenous vegetation in City ordinances.

In 1997, the City adopted the first in a series of landscape guidelines, with revisions in 2007 and 2019. The 2019 Landscape Guidelines were approved by City Council on February 23, 2019 to include current industry standards, best practices, and terminology. The update was also undertaken to align the landscape standards with City policies and plans approved since the 2007 revision. The Landscape Guidelines are intended for use by property owners, developers, and applicants seeking approvals for grading plans, site plans, and/ or special use permits. The document includes chapters on the Landscape Process (including Landscape Guidelines and Other City Standards), Standards For All Projects Requiring Approval (including the Tree and Vegetation Survey, Invasive Species Removal and Management Plan, and Canopy Coverage), Standards for Development Site Plans (Planting Area Standards), and the Development Review Process (Landscape in the Design Review Process, and Critical Design Consideration.) Information in the 2019 Approved Landscape Guidelines is not intended to replace, but instead to

supplement applicable codes, ordinances, and development procedures. In any given application the City may require additional improvements and plantings beyond the established minimums.

The Urban Forestry Section of the Department of Recreation, Parks, and Cultural Activities is responsible for the management of the urban forest on public lands within the, as well as working with other landowners to plant trees and increase tree canopy cover on private property. Urban Forest management activities include tree pruning, removal of diseased or dead trees, and planting new or replacement trees. The Department of Recreation, Parks, and Cultural Activities holds a Fall Native Plant Sale every year to promote the planting of native trees on private property. Trees on sale include black oaks, flowering dogwoods, tulip poplars, chestnut oaks, white oaks, pic pines and black gums.

Under the auspices of the Department of Recreation, Parks, and Cultural Activities, the City Arborist has established a public tree planting program that includes street tree replanting (whereby the City will replace right-of-way trees removed in front of homes for free with maintenance to be provided by the property owner) and The Living Landscape Fund (for the private donation of trees on public lands.) The City's Notable Tree Program maintains a Register of Notable Trees that includes the individual tree type (name and species), the exact location and photos for notable trees on public and private lands.

The site plan and field inspection sections of this review did not reveal any instances where the objective of preserving indigenous vegetation was not met. There are no compliance issues related to this requirement.

Minimizing Impervious Cover

The April 2010 Advisory Review found four (4) provisions in Town's ordinances for minimizing impervious cover. Section 13-109 (General Performance Criteria for CBPA's - C) of the Environmental Ordinance requires land development activities to minimize the amount of impervious cover consistent with the proposed use or development. Land parcels developed in Town's Pedestrian Commercial Zone (C1-B) are required to provide shared parking with adjacent parcels (unless prohibited by regulations governing adjacent lots) and C1-B zoned districts also allow for forty percent of provided parking spaces to be reserved for compact cars. Articles 4 and 7 of the Town's Zoning Ordinance specifies that no more than twenty-five percent of a lot in RS 16, RS 12.5 and RS 10 residential zones may be covered by principal structures, accessory structures, parking areas, sports courts, tennis courts, terraces, and/or patios.

The City has a Self-Certification Guide for Residential Permeable Pavement. The guide is intended to be used to inspect permeable pavement already installed on a single family or townhouse lot. Owner inspection of permeable pavers can assess maintenance, repair, or replacement needs as they arise; inspection and maintenance is required for practices to continue to function. For property owners applying for stormwater utility fee credits, a self-certification indicating that a permeable pavement system has been inspected and found to be fully functioning is required at the time of application. The guide includes a checklist where property owners can affirm that

- The permeable pavement system contains a permeable surface, gravel reservoir layer and an underdrain
- Permeable pavement surfaces are porous concrete, asphalt, or pavers with gravel in the voids.

- The pavement surface edges are free of erosion and sediment accumulation from surrounding areas
- Permeable pores or voids between pavers are free of litter, debris, and sediment
- The permeable pavement does not pond or let water run off during a rain event
- The permeable pavement surface is free of cracks, heaving, or other structural damage

The Department of Recreation, Parks & Cultural Activities has communicated with the Department of Transportation & Environmental Services regarding the benefits of expanding the use of permeable surfaces in City projects to meet stormwater obligations, particularly in cases where stormwater funding could be used to cover additional costs. The two departments have agreed to collaboratively review at projects on a case-by-case basis and determine the project's pollutant reductions and whether stormwater funding is appropriate.

The site plan and field inspection sections of this review did not reveal any instances where the objective of minimizing impervious cover was not met. (The excess number of surface parking spaces located on the First Baptist Church property and referenced in the Field Investigations section of this report appears to have been approved prior to the establishment of the City's CBPA program.) There are no compliance issues related to this requirement.

General Water Quality Protection

The City's Chesapeake Bay Preservation Areas apply jurisdiction-wide and the requirements for implementing the Environmental Management Ordinance apply to the entire City. There are no compliance issues related to this requirement.

Plan of Development (POD) Review Process

The City's Development Review Process Handout, created and maintained by the Department of Planning & Zoning (Development Division), provides all stakeholders in the development process a comprehensive overview of the plan of development process. Development activities subject to review by the City begin with submittal of two types of development applications: the Development Site Plan and the Development Special Use Plan with Site Plan. Each proposed development is assigned a planner from the DPZ, who serves as project manager for the proposed development and who coordinates with other City departments, including the Department of Transportation & Environmental Services, to ensure a consistent and comprehensive development review process. The DRP Handout references five (5) phases in the City's Development Review Timeline:

- Phase 1 - Concept Plan Review (Concept Plan review by all City Departments and the Project Manager is assigned. Applicant fills out the Development Concept Checklist that includes check boxes for the presence of RPAs and "associated buffers");
- Phase 2 - Preliminary Plan Review (including reviews for completeness of application, the preliminary review through Interdepartmental Review (IDR) and scheduling of the public hearing);
- Phase 3: Final Site Plan; If the proposal is approved with conditions, final engineered drawings will be submitted and reviewed. This Final Site Plan must be approved prior to release of any building permits or commencement of construction. • The development planner gathers input from the same interdepartmental group as before and sends comments to the applicant. The plans are resubmitted and reviewed until all the conditions of approval

related to site planning and building design are met. • Once all conditions are satisfied, mylars of the plan set are submitted for final signature

- Phase 4: Building Permits & Construction, and; Phase 5: Project Closeout.

The City has a process for interdepartmental review (IDR) for Concept Plan Review. Development Site Plans (DSP) are required for any development that impacts over 3,000 square feet of disturbed land. DSP are reviewed and approved by Planning Commission and City Council action is not required. Development Special Use Permit (DSUP) is reviewed by PC and forwarded on to City Council. Both DSPs and DSUPs are reviewed by all City Departments. The City's *Final Development Special Use Permit (DSUP) and Development Site Plan (DSP) Checklist* includes a check space (see page 5, under "Final Site Plan") to ascertain the location of "Resource Protection Areas as defined in Article XII of the Zoning Ordinance."

Section 13-104 of the City's Environmental Management Ordinance Administration (Duties and Authority (B)) identifies the Director of Transportation & Environmental Services (T&ES) as the responsible party for receiving applications for the plan of development review and approval process. T&ES staff review applications for all required information and compliance with the EM Ordinance, and assist in scheduling City Council public hearings, and preparing staff report for Planning Commission and City Council Review. Section 13-111 (Design Review Process) requires any development, redevelopment or use requiring 2,500 square feet of land disturbance in the City's jurisdiction-wide CBPA to submit for review and approval a: 1) site plan; 2) Environmental Site Assessment (ES); 3) landscape plan; 4) stormwater management plan; 5) erosion and sediment control plan; 6) stormwater pollution prevention plan (SWPP), and for all land disturbance, development, redevelopment in a RPA or within an environmentally sensitive area as determined by the Director of Transportation and Environmental Services, a Water Quality Impact Assessment (WQIA.) No development, redevelopment, uses or land disturbing activities may commence until the Director of T&ES has approved the final site plan.

Apart from the lack of required plan and plat ordinance requirements noted in Recommended Condition #1 (which once adopted will become part of the development review process), the City's plan of development review process appears to be consistent and comprehensive. There are no compliance issues related to this requirement.

Erosion and Sediment Control

The City's Erosion and Sediment Control (ESC) Ordinance is Title 5 – Transpiration and Environmental Services, Chapter 4 of the City Code. The City's ESC program was found consistent with state requirements in July 2007. Once DEQ re-establishes the ESC program review process, all local ESC programs throughout the state will be subject to review. If areas of concern are detected during review, DEQ will work with the City to address them. There are no compliance issues relating to this requirement.

On-Site Septic Requirements

There are no on-site septic systems located within the City of Alexandria. There are no compliance issues identified relating to this requirement.

CBPA Mapping Requirements

The City of Alexandria's RPA Buffer Map and its 50-Foot Buffer Map, were both adopted in June 2004 and can be found on the City's Transportation and Environmental Services Resource Protection Areas (RPA) webpage (updated December 14, 2015.) In addition, the Alexandria Water Quality Management Supplement to the Comprehensive Plan (updated October 5, 2020) includes a hard copy CBPA map. The RPA Buffer Map and the 50-Foot Buffer maps includes this note: *This map depicts the general location of known Resource Protection Area features and does not represent a definitive statement of Resource Protection Area boundaries. In all cases the actual RPA boundaries of a site shall be governed by the criteria contained in the City's Zoning Ordinance, Sec. 13-105(B) and delineated in accordance with the development review process pursuant to Sec. 13-111 and the environmental site assessment required pursuant to Sec. 13-112. Site-specific evaluations or delineations must be performed by a professional engineer, land surveyor, landscape architect, soil scientist, or wetland delineator certified or licensed to practice in the Commonwealth of Virginia.* There are no compliance issues identified relating to this requirement.

Agricultural and Silvicultural Requirements

There are no lands zoned for agricultural or silvicultural use in the City of Alexandria and no agricultural or silvicultural activities. There are no compliance issues identified relating to these requirements.

Wetlands Permits

Section 13-112 of the City's Environmental Management Ordinance, (Environmental Site Assessment (B)(6)) requires "A listing of all wetlands permits required by law (evidence of permits must be presented to Director of T&ES prior to issuance of permits for grading or other on-site activity." There are no compliance issues identified relating to these requirements.

RPA Development Criteria

The City's Environmental Management Ordinance and Zoning and Ordinance appropriately limit development in RPAs to that which is allowed under the Regulations and implementation of the ordinances through the plan of development review process, as evidenced by the site plan and field inspection reviews, shows that ordinance requirements are consistently met. Based on the site plan and plat review and field inspection processes – and with the exception of the three plan and plat ordinance requirements missing from the ordinances as referenced in Recommended Condition #1 (see page 2 of this report) - the City has adequately addressed the RPA development requirements of its CBPA program. There are no compliance issues related to this requirement.

Regulatory Relief Mechanisms

The City's Environmental Management Ordinance includes all required conditions and requirements for administrative and formal exceptions. Per section 13-119 (A), requests for an exception to the City's RPA requirements are made in writing to the director of T&ES. The request must identify the impacts of the proposed exception on water quality and on lands within the RPA through the performance of a water quality impact assessment (WQIA).

Applicants are required to submit exception requests and a complete Water Quality Impact Assessment (WQIA) consistent with the requirements of section 13-117 as part of a complete

application, to be determined by T&ES staff. Once deemed complete, T&ES staff review and provide comments until which time comments are satisfied, and render a recommendation and draft a staff report for consideration during further review by other City departments and bodies. The exception request and the staff recommendation are presented to the Environmental Policy Commission (EPC). Based on review of the five (5) required findings, the EPC will make a recommendation of support, denial, or modification which will then be considered as part of the Planning Commission's deliberations, per section 13-119 (G). The exception request is then presented to the City Planning Commission for final determination, which will include the staff report. All RPA exception requests are heard separately from the development case.

Administrative waivers of requirements for CBPAs are reviewed by the Director of T&ES. City staff indicate that formal exceptions are rare; none of the Annual Reports from 2016 to 2019 indicated receipt of any formal exception requests. There are no compliance issues related to this requirement.

Comprehensive Plan

The required comprehensive plan information is found in the City of Alexandria Master Plan – Water Quality Management Supplement (WQMS). The information base in that document is comprehensive, with extensive text, tables and maps that address most of the regulatory requirements. However, the WQMS was adopted January 13, 2001 and City staff confirm that the document has not been updated since that date. The eight (8) information groupings referenced below will need to be revised to include current information, per 9VAC25-830-170 of the Regulations.

The Location & Extent of CBPAs

The City's GIS Open Data Hub includes Resource Protection Area map that show the location and extent of CBPAs. There is no text in the WQMS that describes the general location of RPA.

Physical Constraints to Development

The Constraints to Development section includes information on Stream Bank Erosion and Stream Buffers, the Potomac River Shoreline, Wetlands, Topography, Geology and Soils, and Steep Slopes and Poor Soils.

The Character and Location of Commercial & Recreational Fisheries

Based on reviews of the City's Parks & Recreation webpages and several commercial fishing websites, there are no places dedicated to recreational fishing and no commercial fisheries inside City limits.

Shoreline and Streambank Erosion Problems

The WQMS includes sections on Shoreline Protection and Erosion Control; Stream Bank Erosion Control and Stabilization; Stream Corridor Management; and Potomac River Shoreline and Bulkhead Management.

Existing and Proposed Land Use

The City's Land Use Chapter of the Citywide Master Plan was adopted in 1992. Based on a review of City websites, it is not clear if this chapter has been revised and made current. The City's Small Area Plans include neighborhood plans and master plans for the following areas: Alexandria West, Beauregard, Braddock Road Metro Station, Eisenhower East, Eisenhower West, Fairlington/Bradlee, King Street Metro/Eisenhower Avenue, Landmark/Van Dorn, Northeast, North Potomac Yard, Northridge/Rosemont, Old Town, Old Town North, Potomac West, Potomac Yard/Potomac Greens, Seminary Hill/Strawberry Hill, Southwest Quadrant, and Taylor Run/Duke Street.

Existing and Potential Water Pollution Sources

Section III of the WQMS (Pollution and Other Sources of Water Quality Decline) includes information on: Point Source Pollution, Nonpoint Source Pollution, Erosion of the Land and Areas of Special Concern.

Public and Private Waterfront Access

There are twelve (12) parks in Alexandria that provide waterfront access, mostly along the Potomac River. The City's Water Quality Master Plan includes a section on Public and Private Access to Waterfront Areas.

A Map or Maps of Any/All Above

The City's GIS Maps link provides access to three kinds of maps: Standard, Interactive and Downloadable Data. Standard Maps include the 2019 Zoning Map, Resource Protection Areas Map, Topography (Contours) Map and a Marine Clay Areas Map. The Interactive Maps include the Planning and Development Viewer (which shows development project information, active planning project information, underlying zoning classifications, special use permits and mater plan and small area plan information but does not include layers for CBPA designation, wetlands or floodplains.) The Downloadable Data link connects to the City's GIS Open Data Hub, which includes an Environment link for the following subsets: Shoreline, Streams, (Tree) Canopy 2013, Natural Intermittent Stream Buffer, and Resource Protection Areas.

It does not appear that the City has maps showing areas of steep slopes, highly erodible soils, or areas of streambank erosion. Any planned update to the 2001 WQMS should include these new maps as well revisions to existing maps referenced in the Regulations.

As of the date of this report, DEQ staff have not received the required written report describing how the City ensures that data and policies adopted pursuant to Phase II requirements are reviewed and updated as needed to ensure that data and policies referenced in the comprehensive plan remain current, and that the City implements all required components of the Bay Act components of the comprehensive plan and can provide DEQ with a status report regarding that implementation.

Recommended Condition

2. For compliance with 9 VAC 25-830-170 of the Regulations, DEQ recommends that the City of Alexandria ensure that all information referenced in the Water Quality Management Supplement, as relates to the City's CBPA program, reflect current conditions and include up-to-date policies and procedures designed to address the City's regulatory CBPA requirements. DEQ also recommends that the City provide to DEQ, as required, a written statement describing how the City ensures that data and policies adopted pursuant to comprehensive plan requirements are reviewed and updated as needed to ensure that they remain current, and that the City implements all required components of the Bay Act components of the comprehensive plan and can provide DEQ with a status report regarding that implementation.

V. Field Investigations

The City of Alexandria has experienced a robust level of development activity during the last several years, and the five (5) projects selected for the field investigations portion of the City's compliance review reflect the numerous types of development activities in the City. All project photos were taken on November 20, 2020. As noted in Recommended Condition #1 (see page two of this report) the required plan and plat notes were not included on approved plans or plats for these projects.

Abingdon Place



This project involved the redevelopment of an existing hotel into 19 4-story townhouse condominiums on a 0.98-acre site in the Old Town North neighborhood, just east of where Washington Street becomes the George Washington Memorial Parkway. Each townhouse is designed with an enclosed two-car garage on the first floor, and the development features 5 off-street parking spaces for visitors in the northwest corner of the site. (Permitted parking allows for a range of parking spaces between 38 and 57; the project proposed development of 43 spaces.) The applicant requested a modification to the minimum open space requirement for Commercial Downtown (CD) zoned properties. Section 4-506 of the City's zoning ordinance requires multi-family development to provide 40 percent open space; the proposed open space was 35.7 percent, with the majority of that percentage (26.6) from designated open space on the western and southern frontages of the development and the remainder (8.3), from the 203 square-foot of open space in the private terraces of each of the 19 residences. Upon review, the City found that the terrace open space "...functions as open space for residents to the extent that ground-level open space would." The City's 25 percent tree canopy requirement was adjusted down to 21.9 percent, per the applicant's request, due to "site layout constraints". The applicant's mitigation efforts include shade tree plantings in the western and southern rights-of-way and a \$9,500 contribution for tree plantings in the adjacent Memorial Circle. As a result of cooperation between the City and the applicant, a mature oak tree at the southwest corner of the site was protected and saved (see photo). New onsite plantings included seven (7) elm trees, four (4) hollies and 200 shrubs of varying species (boxwood, azalea, juniper, etc.) and 22 annuals/perennials. Roughly 3,454.3 square feet of pervious pavers were installed for the four-foot wide walkways and front entryways for units 1 through 11 and 15 through 19. The project involved development on City-designated RMA lands; there are no RPA features or buffer located on this site. An Environmental Site Assessment was required for the project; a WQIA was not.

First Baptist Church



This redevelopment project in an R-8 residential area involved three additions to an existing church building on a 9.45-acre lot in the Taylor Run neighborhood. Two two-story additions at the front of the church filled in previously undeveloped, landscaped areas on either side of the church sanctuary, increasing interior seating capacity from 855 to 1,100. Taylor Run, a perennial stream with RPA buffer, is located behind the church, and serves as the southern boundary of the church property. The entire lot is RMA, and the project did not result in any RPA encroachments. The stream is accessible from an existing emergency vehicle roadway at the rear of the property, southwest of a surface parking lot on the east end of the property. The roadway connects to an auxiliary surface parking lot south of Taylor Run. A third surface parking lot is located on the west side of the church. The total number of parking spaces for the church is set at 220; the total number of existing parking spaces is 565 spaces. The current project did not include the creation of additional parking, and it is not known if or when parking in excess of the 220 spaces allowed was approved by the City after the City adopted its CBPA program. (A Phase I Archeological Investigation carried out in April 1997 for proposed surface parking areas totaling seven (7) acres showed the [then] proposed 133-space overflow parking area south of Taylor Run. The two other parking areas were not referenced in that document.)

The required ESA for this project notes the absence of tidal wetlands, shores or connected non-tidal wetlands on site. The ESA also indicates the potential for on-site highly erodible or permeable soils. No wetlands permits were required for this project, and there was no encroachment into the on-site RPA. Construction of the three additions resulted in an increase of impervious cover from 27,443 to 29,200 square feet. A contribution to the City's Water Quality Improvements Fund was required (and made) for the portion of on-site impervious area not treated by existing or proposed stormwater BMPs.

The project resulted in the new planting of two large shade trees, eight small ornamental trees, 24 evergreen trees and 102 evergreen shrubs. Crown coverage provided by the proposed plantings resulted in 10,726 square feet of total coverage provided, exceeding the required crown coverage of 9,692 square feet.

2418 Ridge Road Drive

This redevelopment project involved the demolition of an existing two-story residence to facilitate construction of a new single-family residence and pervious pavement driveway. Construction activities impacted 9,250 square feet (0.21 acres) of the 14,411 square foot (0.33 acre) property. The applicant requested permission from the Department of Transportation and Environmental Services to contribute to the City's Water Quality Improvement Fund (WQIF) in lieu of installation of an on-site BMP to address water quality issues. The request was granted and payment was made to mitigate for the additional 2,620 square feet of impervious cover. (The total percentage of impervious cover went from 18.15 to 25.40.) A minor WQIA was required and provided for the project. The approved Tree Preservation Plan indicated that 22 of 37 existing, on-site trees would be preserved by use of protective fencing during construction and that an additional seven trees close to the limits of disturbance would also be fenced and were "likely to survive construction." All tree preservation efforts were done in compliance with the City's Landscape Guidelines. Environmental Site Assessment information included in the site plan indicated the absence of any tidal wetlands, tidal shores, tributary streams floodplains, connected tidal wetlands, isolated wetlands and "...buffer areas associated with shores, streams or wetlands on the site." Under "City Standard General Notes" the site plan indicates that the property is located in the Cameron Run Watershed, and that "no portion of the subject property lies within a City of Alexandria Resource Protection Area." However, sheets 4 (Grading Plan/WQIA) and six (Tree Preservation Plan) both show delineated RPA at the back of the property, immediately adjacent to the rear of the new residence. The WQIA information notes the presence of a perennial stream (unnamed) at the rear of the property and a FEMA floodplain is shown as well. While City staff reviewing the project noted the presence of on-site RPA features, the conflicting information – where one part of the submitted documentation indicated the absence of RPA, while another part contradicted that assertion could have led to confusion at the least or, worse case scenario, an incomplete or inaccurate review. This was the only instance of conflicting RPA information found during site plan review.

Potomac Yard (Landbay H West - Silverstone)



This project involved the development of the first of two buildings (the first, a nine-story building with 163 units under construction, and one planned eight-story building with 160 units) for assisted

living/memory care and assisted living/independent living facilities on a 2.01-acre lot on Main Line Boulevard between the Potomac neighborhood to the north and the Northeast Alexandria neighborhood to the south. Development of Building One required the removal of a small one-story structure (use unknown), a 14-space surface parking lot with access drive off Main Line Boulevard, an asphalt trail, sidewalks, assorted utility remnants, wells and utility disconnections. Approval of the project required amendments to the Potomac Yard/Potomac Greens Small Area Plan section of the City's Master Plan, the zoning ordinance, the Coordinated Development District Concept Plan. The approved project includes 12,000 square feet of first-floor retail. The area to the north of the current construction activities, reserved for the construction of Building 2, remains a vacant lot, flat, with no major vegetation or other natural features. There is no on-site RPA for either development site. The approved site plan includes thirteen (13) landscape plan sheets for proposed plantings on the ground floor, and terraces on the third, fourth seventh and eighth floor terraces.

Potomac Yard Metrorail Station

The Potomac Yard Metrorail Station project is a collaboration between the City's Department of Implementation and the Washington Metropolitan Area Transit Authority (WMATA). The 6.99 acre site is located approximately midway between the Ronald Reagan Washington National Airport and the Braddock Road Station along Metrorail's existing Blue and Yellow Lines. The area is bordered by the George Washington Memorial Parkway to the east and northeast, the Potomac Greens neighborhood to the south, and active CSX tracks, Potomac Avenue, and Potomac Yard Shopping Center to the west and northwest. The station location was approved by City Council in June 2015.

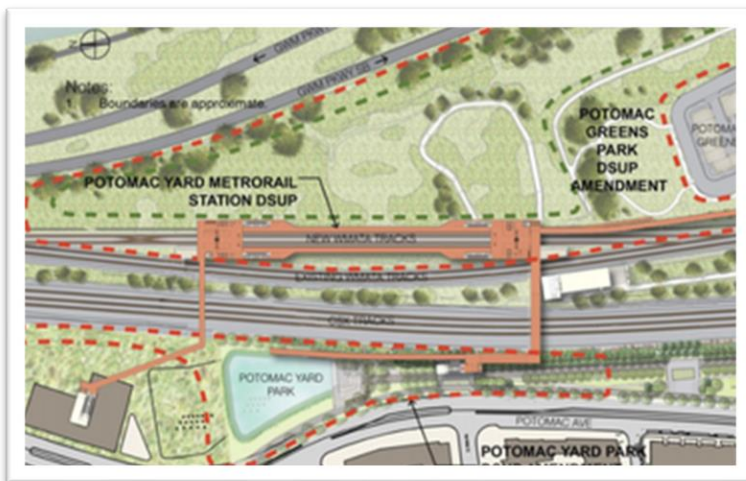
The project includes several components including a 97,000 square foot Metrorail station, two entry pavilions within the Potomac Yard neighborhood, two pedestrian/bicycle bridges spanning the CSX rail tracks connecting to the entry pavilions, a pedestrian/bicycle ramp connecting to the Potomac Greens neighborhood, a new AC switchgear room, and re-alignment of the Metrorail tracks through the new station. The station will be approximately 50 feet tall at each end, and drop to approximately 23 feet in the middle along the platform area. The open-air bridges crossing the CSX tracks will be weather-protected, and enclosed in a mesh or fence that precludes jumping or throwing of objects. The station mezzanines are similarly open-air (non-conditioned space) but require solid transparent enclosure walls and roof overhangs sufficient to preclude wind-driven rain, and to provide excellent weather protection in the space. The track geometry in this section of the Blue/Yellow Line is such that the only a side-platform configuration could be made to work.

The project is located within an existing RPA and mapped wetland area, and a Water Quality Impact Assessment (WQIA) was required in accordance with the provisions of Article XIII of the City's Zoning Ordinance to the satisfaction of the Director of Transportation and Environmental Services. The project will result in 4.27 permanent impacts to RPA.

The required Environmental Site Assessment (ESA) shows individual components of the RPA as well as the total geographic extent of the RPA (with buffer) and was carried out in a manner approved by the Director of Transportation and Environmental Services. The ESA describes and maps all on-site intermittent streams (and associated buffers), highly erodible and highly permeable soils, steep slopes greater than 15 percent in grade; known areas of contamination;

springs, seeps or related features, and a listing of all wetlands permits required by law. The applicant was required to document the source of onsite wetland delineation and a description of any actions to be taken to minimize and/or mitigate the impact of the development on existing wetlands as required by Article XIII of the City of Alexandria Zoning Ordinance. The applicant was also required to mitigate all impacts to water quality of the development by the encroachment into and/or destruction RPAs and mapped wetland area by the following methods to the satisfaction of the Director of Transportation and Environmental Services, including but not limited to :

- Restoring streams subject to historic erosion damage.
- Increasing vegetation onsite and/or performing offsite plantings.
- Contribution to T&ES funds to stream restoration / water quality projects.
- RPA encroachments shall be mitigated according to the guidelines suggested in the “Riparian Buffers Modification & Mitigation Guidance Manual” by the Chesapeake Bay Local Assistance Department.
- Water quality impacts may be mitigated by stream restoration / stabilization equal to the linear distance to that of the linear encroachment into the RPAs on-site





**Corrective Action Agreement - Alexandria
Chesapeake Bay Preservation Act Program
Page 1 of 3**

This is a Corrective Action Agreement ("Agreement") by and between the State Water Control Board ("Board") and the City of Alexandria ("City") regarding the City's Chesapeake Bay Preservation Act Program ("CBPA Program"). This Agreement is issued pursuant to and under the authority of Va. Code § 62.1-44.15:71 and 9VAC25-830-260(1)(b), which provide in relevant part that the Board may conduct compliance reviews and evaluations of local government CBPA Programs and, if deficiencies are found by the Board that render the locality's program inconsistent with the Chesapeake Bay Preservation Act and Regulations, the Board will establish a corrective action plan and a schedule for the local government to come into compliance.

DEQ, on behalf of the State Water Control Board, conducted a review of the City's CBPA Program and submitted a staff report to the City on February 8, 2021. Based on the review of the CBPA Program, the Board finds the CBPA Program contains the deficiency listed in the table below and is therefore not consistent with the Chesapeake Bay Preservation Act and Regulations. By entering into this Agreement, the City does not admit to the Board's findings of deficiencies and the legal requirements contained herein for the program components listed below, but agrees not to contest the findings and to implement the necessary corrective actions identified by the Board on or before the agreed completion date.

Deficiencies	Corrective Action	Completion Date
<p>Deficiency: The Board finds that the County has not updated the City of Alexandria Master Plan – Water Quality Management Supplement since it was adopted on January 13, 2001. Eight elements have not been updated to include current information: Location and Extent of Chesapeake Bay Preservation Areas, Physical Constraints to Development, Character and Location of Commercial and Recreation Fisheries, Shoreline and Streambank Erosion Problems, Existing and Proposed Land Use, Existing and Potential Water Pollution Sources, Public and Private Waterfront Access Areas, and Maps of the elements. The existing maps are outdated and the City does not have maps showing areas of steep slopes, highly erodible soils, or areas of streambank erosion.</p> <p>The Board also finds that the City cannot describe how it ensures that data and policies are reviewed and updated as needed to ensure the comprehensive plan remains current and cannot provide a progress update regarding implementation of all required Bay Act components of the Comprehensive Plan.</p>	<p>The City shall ensure that all information and elements referenced in the Water Quality Management Supplement (WQMS) related to the City's CBPA program reflect current conditions and meet the requirements of 9VAC25-830-170. The WQMS shall include implementing measures, including specific objectives and a timeframe for accomplishment.</p> <p>The City shall also provide to DEQ a written statement describing how the City will ensure that data and policies adopted pursuant to comprehensive plan requirements are reviewed and updated as needed to remain current. The statement should also describe how the City will track progress implementing Bay Act components and policies in the future.</p>	September 30, 2022

Legal Requirement:

9VAC25-830-170 states: "Local governments shall review and revise their comprehensive plans, as necessary, for compliance with § 62.1-44.15:74 of the Act and this chapter. As a minimum, the comprehensive plan or plan component shall consist of the following basic elements: (i) a summary of data collection; (ii) analysis and policy discussion(s); (iii) land use plan map(s); and (iv) implementing measures, including specific objectives and a time frame for accomplishment.

1. Local governments shall establish and maintain, as appropriate, an information base from which policy choices are made about future land use and development that will protect the quality of state waters. This element of the plan should be based upon the following, as applicable to the locality:

- a. The location and extent of Chesapeake Bay Preservation Areas;
- b. Physical constraints to development, including soil limitations;
- c. The character and location of commercial and recreational fisheries and other aquatic resources;
- d. Shoreline and streambank erosion problems;
- e. Existing and proposed land uses;
- f. Catalog of existing and potential water pollution sources;
- g. Public and private waterfront access areas, including the general locations of or information about docks, piers, marinas, boat ramps, and similar water access facilities;
- h. A map or map series accurately representing the above information...

2. c. For each of the policy issues listed above, the plan shall contain a discussion of the scope and importance of the issue, the policy adopted by the local government for that issue, and a description of how the local policy will be implemented."



Corrective Action Agreement - Alexandria
Chesapeake Bay Preservation Act Program
Page 3 of 3

Pursuant to Va. Code § 62.1-44.15:71 and 9VAC25-830-260, the Administrative Process Act (§ 2.2-4000 *et seq.*) shall govern the review activities and proceedings of the Board and the judicial review thereof. By signing this Agreement, the City declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Agreement.

The undersigned representative of the City certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Agreement and to execute and legally bind the City to this document. Any documents to be submitted pursuant to this Agreement shall also be submitted by a responsible official of the City.

This Agreement shall become effective upon execution by both Virginia Department of Environmental Quality and the City of Alexandria.

Signature: _____ Date: 1.26.22

Name & Title: _____
James E. Parajon, City Manager

Signature: _____ Date: 1/27/22

Justin Williams, Director, Office of Watersheds and Local Government Assistance Programs

Deputy City Attorney
Approved as to Form

**DEPARTMENT OF ENVIRONMENTAL QUALITY
CHESAPEAKE BAY PRESERVATION ACT PROGRAM
COMPLIANCE EVALUATION
CONDITION REVIEW**

City of Alexandria

Local Coordinator: Melanie Mason, Principal Planner, Dept. of Transportation & Environmental Services, City of Alexandria
DEQ Liaison: Daniel Moore, Principal Environmental Planner

Background

DEQ staff reviewed implementation of the City's Chesapeake Bay Preservation Act program on February 8, 2021. At that time, DEQ staff identified two (2) recommended conditions regarding certain aspects of the City's implementation of its program. Staff originally recommended that the City address the two (2) compliance conditions no later than January 31, 2022. (The original compliance date was adjusted by DEQ staff on January 7, 2022 to September 30, 2022, per the City's requested extension for the required comprehensive plan revisions.) Since the September 30, 2022 deadline, the City has undertaken actions to address the recommended conditions. Ordinance 13-109 was approved by Alexandria City Council on September 9, 2021.

Staff Recommendation

The City of Alexandria has addressed the two (2) conditions from the February 8, 2021 Draft Corrective Action plan and staff recommends that the DEQ find that implementation of the City of Alexandria's Chesapeake Bay Preservation Act program complies with §§ 62.1-44.15:74 and 15:76 of the Chesapeake Bay Preservation Act and §§ 9 VAC 25-830-200 and 240 of the Chesapeake Bay Preservation Area Designation & Management Regulations.

Staff Analysis

Recommended Condition #1

DEQ staff recommends that the City of Alexandria require the following: 1) a plat notation of the requirement to show RPA and RMA boundaries, 2) a plat notation of the requirement to retain an undisturbed and vegetated 100-foot wide buffer area; 3) a plat notation that specifies permitted development in the RPA is limited to water dependent facilities or redevelopment, including the 100-foot wide vegetated buffer, and; 4) a site plan notation of the requirement that the delineation of the buildable area be shown on all submitted site plans.

On September 9, 2021, the City of Alexandria Planning Commission reviewed and approved Zoning Text Amendment #2021-00003 (Consent Calendar #3) that allows Section 13-114 to "reflect recommendations by the Virginia Department of Environmental

Quality, as part of the 2020 Chesapeake Bay Audit and required under the Virginia Administrative Code.” The staff report for the approved Zoning Text Amendments (page 29, 11-1706: Contents of Preliminary Plat Application.) includes the following:

(D) An application for preliminary plat approval shall include the following information and material:

(15) Limits of floodplains, resource protection areas and resource management areas.

(15.1) In the case of properties containing resource protection areas, plat shall include a notation to retain an undisturbed and vegetated 100-foot-wide buffer area.

(15.2) In the cases of properties containing resource protection areas, plat shall include a notation specifying permitted development in the resource protection area is limited to water dependent facilities or redevelopment, including the 100-foot-wide vegetated buffer area.

As noted in a January 24, 2022 email and follow-up email of February 9, 2022 from DEQ staff to City staff, the City has successfully met the necessary plat and plan requirements (per amendments to Section 11-1706 of the City Zoning Ordinance), and the requirement (referenced in Section 13-114 (A) (8) (i) of the Zoning Ordinance) that the delineation of buildable areas allowed on each lot be shown on all approved site plans.

Recommended Condition #2

DEQ staff recommends that the City ensure that all information referenced in the Water Quality Management Supplement, as relates to the City’s CBPA program, reflect current conditions and include up-to-date policies and procedures designed to address the City’s regulatory CBPA requirements. DEQ also recommends that the City provide to DEQ, as required, a written statement describing how the City ensures that data and policies adopted pursuant to comprehensive plan requirements are reviewed and updated as needed to ensure that they remain current, and that the City implements all required components of the Bay Act components of the comprehensive plan and can provide DEQ with a status report regarding that implementation.

City staff provided a draft copy of the City’s Chesapeake Bay Preservation Plan to DEQ staff on August 17, 2022, prior to Planning Commission review on September 6, 2022 and City Council Review on September 17, 2022. DEQ staff provided review comments to City staff on August 24, 2022. DEQ staff received an additional draft of the CBPP document on September 19, 2022, showing the incorporation of DEQ staff comments and edits. (It should be noted that DEQ staff did not find any factually incorrect information in the draft CBPP documents reviewed, and that edits and comments provided by DEQ were supplementary in nature.) Based on that review process, DEQ staff finds that the City has successfully met the requirement to provide a current, up-to-date environmental supplement to the City’s comprehensive plan designed to address the City’s CBPA requirements, and the requirement to provide DEQ with a status report regarding how data and policy updates to the to the comprehensive plan supplement are provided.